

OCD-10

ORDER SHEET

AP/697/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

INTERMINABLE COMMODITY MANAGEMENT INDIA PVT. LTD.
VS
THE WEST BENGAL POWER DEVELOPMENT CORPORATION LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 29th September, 2023.

Appearance:

Mr. Shiv Shankar Banerjee, Adv.
Mr. Dipak Kumar Mukhopadhyay, Adv.
Ms. Sanchita Barman Roy, Adv.
...for the petitioner

Mr. Chayan Gupta, Adv.
Mr. Aviroop Mitra, Adv.
...for the respondent

The Court: The dispute between the parties arises out of an Agreement pursuant to a tender floated by the respondent for sale of dry fly ash. The Agreement is dated 1.4.2022. The respondent was to sell the fly ash to the petitioner. Disputes arose between the parties on the respondent alleging that the petitioner did not lift the agreed quantity of fly ash and the petitioner alleging that the respondent did not supply the agreed quantity of fly ash. The respondent ultimately terminated the Agreement and invoked the bank guarantee furnished by the petitioner.

All these disputes would be clear from the Notice invoking the arbitration clause contained in the Agreement for sale by the petitioner in the form of a Notice under Section 21 of the 1996 Act dated 25th October, 2022. The disputes are delineated in paragraph 15 of the said Notice. The respondent replied to the Notice on 20th February, 2023 disputing the contentions in the Section 21 Notice as well as the petitioner's choice of Arbitrator.

The facts show that this is a fit case where an Arbitrator may be appointed to resolve the disputes and differences which have arisen between the parties.

AP/697/2023 is, accordingly, allowed and disposed of by appointing Mr. Avinash Kankani, Counsel to act as the Arbitrator subject to the learned Arbitrator communicating his/her consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date.

The petitioner's advocate-on-record shall communicate this order on the learned Arbitrator by 3rd October, 2023 along with the requisite details of the contact person of the petitioner.

Since no affidavit has been called for, the allegations are deemed not to have been admitted.

(MOUSHUMI BHATTACHARYA, J.)